

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 16TH DAY OF JUNE 1998

B E F O R E

THE HON'BLE MR. JUSTICE CHANDRASHEKARAIAH

WRIT PETITION NO.22570/1997

BETWEEN:

Sri K.K.Belliappa,
Flat No.2F, Belvedere
Court, 6, Spencer Road,
Bangalore - 5.

... Petitioner.

(By Sri Anantha Raman for Petr.)

AND:

1. The Commissioner,
Bangalore City Corprn.,
Corprn. Buildings,
N.R.Square, Bangalore - 2.

2. M/s Tarapore & Co.,
Dhun Building, 827,
Anna Salai, Chennai - 600 002.

3. M/s.Tarapore Construction Co.
Pvt. Ltd., Dhun Building,
827, Anna Salai,
Chennai - 600 002.

... Respondents.

(By Sri Ashok Haranahalli for R-1,
Sri A.R.Desai for R-2 & R-3.)

... 2/-

This Writ Petition filed under Articles 226 & 227 of the Constitution of India with an affidavit praying to: Direct R1 to take action against R2 and 3 under section 321 of the KMC Act 1976 to ensure that the misuse of part of the basement floor of the Belvedere Court apartment Complex at 6, Spencer Road, Bangalore for office/godown is stopped forthwith and to get the unauthorised servant's quarters and toilet blocks demolished and to take penal action against the said respondents as authorised by law and etc.

This Writ Petition coming on for preliminary hearing in 'B' group this day, the Court made the following:

O R D E R

bsr(c.t.)

r.by: L
76/7/98

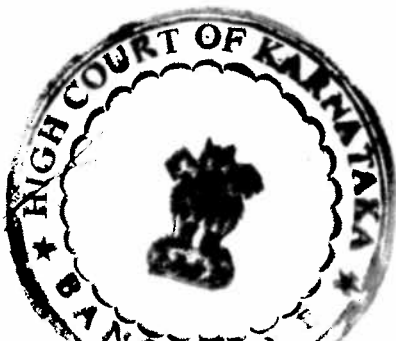
c.by: D

The petitioner has filed this writ petition for a direction to the Corporation to take action under Sec.321 of the Karnataka Municipal Corporations Act (for short the Act) on the ground that respondents 2 and 3 have put up the construction contrary to the approved plan.

2. Learned counsel for respondents 2 and 3 has filed a statement of objections wherein he has stated nodoubt there was some deviation but the said deviation has been regularised by the Corporation by compounding the said deviation. Further, he has submitted that the Corporation has levied compounding fee of Rs.1,85,570/- and the same was paid to the Corporation. On these facts it is contended that since the deviation if any has been regularised by the Corporation, the question of taking action under Section 321 of the Act does not arise. If really the deviation in construction has been regularised by the Corporation, there is no need for the Corporation to take any action under Section 321 of the Act. On the other hand, if respondents 2 and 3 have put up any construction other than the construction which has already been regularised, it is open for the Corporation to take appropriate action under Section 321 of the Act.

With these observations, this writ petition is disposed of.

G/290698

Sd/-
JUDGE

